

# **HALIFAX REGIONAL MUNICIPALITY**

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## **PENINSULA COMMUNITY COUNCIL SPECIAL MEETING MINUTES NOVEMBER 25, 2004**

**PRESENT:** Councillor Sue Uteck, Chair  
Councillor Sheila Fougere  
Councillor Patrick Murphy

**ABSENT WITH  
REGRETS:** Councillor Dawn Sloane

**STAFF:** Barry Allen, Municipal Solicitor  
Ms. Sherryll Murphy, Legislative Assistant

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**1. CALL TO ORDER**

The meeting was called to order at 6:30 p.m.

**2. RE-HEARING - VARIANCE APPEAL - DECISION OF THE DEVELOPMENT OFFICER TO APPROVE A VARIANCE AT 5369 INGLIS STREET**

- Consideration of this matter was adjourned from the November 18, 2004 special meeting of Peninsula Community Council.

The Chair apologized once again for the delay with this hearing noting that an error had occurred relative to the date for the meeting.

Mr. Steve Higgins, Development Officer, briefly reviewed the staff report dated November 1, 2004, regarding an appeal of the Development Officer's decision to approve a variance from the minimum lot area and minimum yard requirements of the land use by-law to permit an addition to an existing three unit apartment building.

Mr. Higgins reiterated that Community Council was re-hearing this matter as the date of the appeal had been erroneously communicated to the appellant as November 25, 2004.

The Chair called for persons wishing to speak in favour of or against the appeal.

**Trevor Begen, Halifax Condominium Corporation 46**

Utilizing sketches and photos, Mr. Begen noted that:

- the properties are separated by a driver and are very close to each other
- with the overhang on the driveway there is approximately three feet between the properties
- two of his windows look directly out at the applicants property only 8-9 feet away
- he is concerned about increased noise
- his bedroom is within 10 feet of the deck and he is a light sleeper
- he has experienced problems with noise and vandalism from the neighbours to the west and believes there is the potential for the same type of situation with this addition
- he believes the addition will result in a reduction in the value of his property and, therefore, a financial loss
- the south end of Halifax is crowded and the by-laws were created to ensure appropriate setbacks
- the Condominium Corporation is only asking Community Council to maintain those by-laws

In conclusion, Mr. Begen referring to the assurances given by the applicant, noted that the Cummings owned the building now, but may sell it in the future.

**Andrea Bodie, Halifax**

Using photographs to illustrate the congestion of the backyards in this area, Ms. Bodie indicated that the proposed addition will be within four feet of the property line. She went on to express concern that it will diminish her privacy and security. Ms. Bodie indicated that she wanted that privacy and security upheld and respected. Expressing concern regarding a possible decrease in value of her property, Ms. Bodie noted that the additional level will cut off any view of the harbour she enjoys. Compounding the situation, Ms. Bodie noted that she will have a front row view into the Cummings home and patio. Concluding her remarks, Ms. Bodie requested that Community Council uphold the by-law and the privacy she thought she would have when she bought the property.

**Dave Cummings, the applicant** noted that :

- the original decks were closer to the adjacent property than the new addition will be
- he has the professional opinion of an appraiser indicating that the addition would not decrease the property values. Mr. Cummings provided a copy of this appraisal for the record.
- there would be no damage to any vehicles as a result of things falling or being thrown from the deck, the deck is 30 feet from the parked vehicles and will include a seven foot (7 ft.) privacy fence
- privacy should not be an issue as there will be no windows on the portion of the addition facing the appellant(s)' property

Concluding his remarks, Mr. Cummings illustrated, using photos, the improvements that have been made to the property since he and his wife purchased the property.

The Chair called three times for persons wishing to speak in favour of or against the appeal.

Hearing none, it was **MOVED by Councillor Fougere, seconded by Councillor Murphy that variance hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Fougere advised that she made a site visit relative to this particular appeal. Noting that privacy is always going to be an issue in an urban setting, the Councillor indicated the portion of the appellant lot abutting the applicant's lot is very small. Councillor Fougere indicated that she was uncertain that the lack of privacy would be exacerbated given that there are no windows in the portion of the addition in question and the deck is replacing one that is

existing. Concluding her remarks, Councillor Fougere indicated that she did not believe the request to be unreasonable given the neighbourhood.

**MOVED by Councillor Fougere, seconded by Councillor Murphy that Peninsula Community Council uphold the decision of the Development Officer and deny the appeal. MOTION PUT AND PASSED UNANIMOUSLY.**

The Chair noted that the following information items had been distributed to members of Community Council:

1. Information Report dated November 15, 2004 prepared by Barry S. Allen, Manager, Legal Services, re Heritage Trust of Nova Scotia et. al. v. Peninsula Community Council.
2. Correspondence from Elaine Wagner, Appeals Officer/Clerk, Nova Scotia Utility and Review Board, re Order and Decision of the Board re Development Agreement at 1684 Grafton Street, Midtown Tavern and Grill Limited

**3. ADJOURNMENT**

There being no further business, the meeting adjourned.

Sherryl Murphy  
Legislative Assistant